

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 244

Health Insurance Act 1973

Health Insurance (Diagnostic Imaging Services Table) Regulations 2005

Subsection 133(1) of the *Health Insurance Act 1973* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act provides, in part, for payments of Medicare benefits in respect of professional services rendered to eligible persons. Section 9 of the Act provides that Medicare benefits shall be calculated by reference to the fees for medical services, including diagnostic imaging services, set out in prescribed tables.

Subsection 4AA(1) of the Act provides that the regulations may prescribe a table of diagnostic imaging services that sets out items of diagnostic imaging services, the amount of fees applicable in respect of each item and the rules for interpretation of the table. The *Health Insurance (Diagnostic Imaging Services Table) Regulations 2004* (the 2004 Regulations) currently prescribe such a table.

Subsection 4AA(2) of the Act provides that, unless sooner repealed, regulations made under subsection 4AA(1) cease to be in force and are taken to have been repealed on the day after the 15th sitting day of the House of Representatives after the end of a period of 12 months, commencing on the day on which the regulations are notified on the Federal Register of Legislative Instruments (formally in the *Gazette*). The 2004 Regulations were notified in the *Gazette* on 29 October 2004 and commenced on 1 November 2004.

The purpose of the Regulations is to repeal the 2004 Regulations and to prescribe a table of diagnostic imaging services for the 12 month period commencing on 1 November 2005. The new table would effectively reproduce the table contained in the 2004 Regulations, with some amendments to the rules of interpretation and the schedule of services and fees. The Regulations would set out the items of diagnostic imaging services which are eligible for Medicare benefits, the amount of fees applicable in respect of each item and rules for interpretation of the table.

Medicare funded diagnostic imaging services specified in the diagnostic imaging services table are managed between the Australian Government (as represented by the Department of Health and Ageing) and relevant diagnostic imaging profession representative bodies through four “2003-2008 Quality and Outlays Memoranda of Understanding (MoUs)”. The four MoUs cover radiology, cardiac imaging, nuclear medicine imaging and obstetric and gynaecological ultrasound.

The amendments to the 2004 Regulations are to services specified under the Obstetric and Gynaecological Ultrasound MoU with minor amendments to three items of service under the Radiology MoU. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists and the Royal Australian and New Zealand College of Radiologists, through

the Obstetric and Gynaecological Ultrasound MoU Management Committee, support the amendments to obstetric and gynaecological ultrasound services.

Details of the Regulations are set out in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Act specified no conditions to be met before the power to make the Regulations was exercised.

The Regulations commence on 1 November 2005.

Details of the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2005*

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2005*.

Regulation 2 - Commencement

This regulation provides for the Regulations to commence on 1 November 2005.

Regulation 3 – Repeal

This regulation repeals the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2004* (as amended).

Regulation 4 - Definitions

Regulation 4 defines, for the purpose of the Regulations, **Act** to mean the *Health Insurance Act 1973* and **this table** to mean these Regulations.

Regulation 5

Regulation 5 provides that the table of diagnostic imaging services in Schedule 1 is prescribed for the purposes of subsection 4AA(1) of the Act.

Schedule 1 - Table of diagnostic imaging services amendments

In addition to remaking the *Health Insurance (Diagnostic Imaging Services Table) Regulations 2004*, the Diagnostic Imaging Services Table 2005 amend:

- Part 2 – Rules of interpretation; and
- Part 3 – Services and fees.

Part 2 - Rules of interpretation

The rules of interpretation amend where references to *the Commission* i.e. Health Insurance Commission, are made. These references are omitted and replaced with *the Medicare Australia CEO* following recent amendments to the *Health Insurance Commission Act 1973* as made by the *Human Services Legislation Amendment Act 2005*.

Rule of interpretation 11 is amended to insert sub-regulation 11(2) to provide that obstetric and gynaecological ultrasound items of service 55706, 55707, 55708, 55709, 55718, 55723, 55759, 55762, 55768 and 55770 are applicable for any particular patient not more than once in a pregnancy. These items of service have restrictors in the item descriptors to limit the number of times that the item is applicable to any patient in a specified period of time.

Rule of interpretation 12(1) is amended by inserting item 55707 after 55704 and omitting item 55723. Subrule 12(1) specifies that for services where clinical indications are listed, the

referral must identify the relevant clinical indications. Item 55707 specifies that one or more of the clinical indications mentioned in subparagraphs (e) (i) to (xxx) in item 55704 must be present. Item 55723 is not an item of service which requires a referral.

Rule of interpretation 12(2) is amended by inserting item 55708 after 55705 and 55766 after 55762. Subrule 12(2) specifies that if a service is self-determined, the clinical condition or indication must be recorded in the medical practitioner's clinical notes. Items 55708 and 55766 are items of service which can be self-determined.

Part 3 - Services and Fees

Two new items of service, 55707 and 55708, are inserted. These items are ultrasound scans of the pelvis or abdomen, including nuchal translucency measurement. There is anecdotal evidence that nuchal translucency measurement is currently being performed under existing items 55704 and 55705 as part of assessing 'risk of fetal abnormality' (one of the clinical indicators for these items). The introduction of these items provide an opportunity to monitor the utilisation of nuchal translucency testing. The Department's Medical Services Advisory Committee has reviewed nuchal translucency measurement and determined that the procedure is safe, effective and cost-effective.

Items of service 56225, 56226 and 56232 is amended by omitting "cervical region" and inserting thoracic region" in item 56225, omitting "cervical region" and inserting "lumbosacral region" in item 56226 and omitting "cervical region" and inserting "lumbosacral region" in item 56232. This is to correct errors identified in the item's description of service.